

**Northern Arapaho Business Council**

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42-9082L

July 19, 2006

Phil Hogen, Chairman  
National Indian Gaming Commission  
1441 L Street NW, Suite 9100  
Washington, D.C. 20005

Also via fax: (202) 632-7066

Re: Proposed Class II Regulations

Dear Chairman Hogen,

The Northern Arapaho Tribe opposes promulgation of the NIGC's proposed class II regulations in their current form, particularly those which seek to change the definition of class II technological "aids" set forth by the Tenth Circuit Court of Appeals in *Seneca-Cayuga, Fort Sill Apache, Northern Arapaho Tribe, and Diamond Games v. NIGC* and other cases. The new regulations could deprive the Tribe of the benefits of its federal litigation and send a dismal message to all that "too much" economic success can be reversed by the very federal agency charged with overseeing that success. We urge the NIGC not to reject the well-established rules of law regarding statutory interpretation and not to destroy a vital tool for tribal economies.

The State of Wyoming failed to negotiate with the Northern Arapaho Tribe in good faith regarding parimutuel, calcutta, and the full gamut of casino-style class III games, *Northern Arapaho Tribe v. State of Wyoming*. Faced with an unemployment rate of nearly 70% and a poverty rate over 60%, the Northern Arapaho Tribe does not allocate its limited resources lightly. Without the income from class II technological "aids," the Northern Arapaho Tribe could not have funded its decade-long struggle for justice under the IGRA. The State's bad faith has cost millions of dollars in wages and the many benefits gaming employment offers the jobless and their families. The State's bad faith also has cost the Tribe millions of dollars in unearned class III income during that time - income the Tribe will never recover.

For many Tribes, the ability to offer class II "aids" without state interference provides essential resources and leverage to negotiate some form of compact for class III gaming. Removing this tool from the Tribes -- without removing any tools from the states -- further undermines state incentives to negotiate reasonable gaming compacts.

Even though the Northern Arapaho Tribe now has class III gaming under Secular procedures, class II technological "aids" remain an important economic tool. The Wind River

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Reservation includes about 2.2 million acres, which means that small communities are scattered over large distances in a very rural environment. Over 90% of Northern Arapaho lands on the Reservation are jointly owned with the Eastern Shoshone Tribe and no class III gaming can occur on these lands without the consent of that Tribe. As a result, efforts to develop jobs and economies in most of our communities currently are limited to class II gaming.

Our efforts to develop and protect Arapaho gaming have spanned the last decade and are only now beginning to reap the benefits intended by Congress. We still rely on the results of our hard-fought federal court rulings and we depend on class II "aids" to create jobs in our rural communities. In states with a proven record of bad faith negotiations, the loss of these "aids" will further reduce prospects for negotiating a gaming compact at all, let alone one that is fair. The very federal agency charged with overseeing successful Indian gaming should not impose regulations which will serve only to strip that success away. We urge the NIGC to abandon its current efforts to re-define class II technological "aids."

Sincerely,

A handwritten signature in black ink, appearing to read "Richard Brannan", written in a cursive style.

Richard Brannan, Chairman  
Northern Arapaho Business Council

xc: Northern Arapaho Gaming Agency  
Wind River Casino  
Baldwin & Crocker, P.C.